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M E M O R A N D U M

TO: Col. Joseph R. Fuentes, Superintendent, Division of State Police
All Law Enforcement Chief Executives

FROM: Vaughn L. McKoy, Director

DATE: January 22, 2004

SUBJECT: New DWI 0.08% *Per Se* Offense, Revised Standard Refusal Statement

Effective as of noon, Tuesday, January 20, 2004, Governor James M. McGreevey signed Assembly Bill No. A682, Second Reprint, into law. This bill lowered the *per se* blood alcohol limit for a DWI offense (*N.J.S.A.* 39:4-50) from 0.10% to 0.08%. It also changed the upper *per se* limit in *N.J.S.A.* 39:4-50.14, as it applies to a person under the legal age to purchase alcohol, from a blood alcohol reading of 0.10% to 0.08%. Both of these provisions became effective immediately upon adoption (A682 [2R], §4).

As a result of the change to *N.J.S.A.* 39:4-50, initiated with the adoption of this bill, it was necessary to have the Chief Administrator of the New Jersey Motor Vehicle Commission (formerly the Director, Division of Motor Vehicles) approve a revised Standard Statement for Operators of a Motor Vehicle, pursuant to *N.J.S.A.* 39:4-50.2(e). The NJMVC Chief Administrator approved that revision on January 21, 2004. A copy is attached and is also available, in an Adobe Acrobat PDF format, on the Division of Criminal Justice internet website at www.njdcj.org or at www.state.nj.us/lps/dcj, under Guidelines, DWI Enforcement, "NJMVC Standard Refusal Statements."

Accordingly, this Letter-Memorandum will supercede, in part, the Letter-Memorandum dated January 8, 2001 entitled, "Revised DMV Standard (Refusal) Statements for Persons Arrested for DWI, *N.J.S.A.* 39:4-50.2(e) and/or CDL/DWI, *N.J.S.A.* 39:3-10.24e."

Effective immediately **all** law enforcement officers in this State who place a person under arrest for a DWI violation (*N.J.S.A.* 39:4-50) are required to use the attached January 21, 2004 revised Standard Statement. Officers who place a person under arrest for a CDL/DWI violation (*N.J.S.A.* 39:3-10.13) or operating a vessel while intoxicated (OVWI) violation (*N.J.S.A.* 12:7-46) are to continue to use the Standard Statements for those offenses, as revised effective February 1, 2001.

Please note, however, that the content of the Standard Statements **cannot be altered or changed in any manner**, and **cannot be translated to any other language**.

Police and law enforcement agencies should NOT attempt to contact the Division of Criminal Justice, the Office of the Attorney General or the NJMVC with their inquiries concerning this matter. Questions concerning these revised Standard Statements should be directed to the Police Legal Advisor or other appropriate Assistant Prosecutor in County Prosecutor's Office of your county. State, Bi-State and other Law Enforcement Agencies should contact, respectively, their Deputy Attorney General, General Counsel or designated legal advisor.

Attachment: Revised NJMVC Standard Statement for Operators of a Motor Vehicle

- c. Attorney General Peter C. Harvey
All County Prosecutors
Diane Legreide, Chief Administrator, NJMVC
AAG Jessica S. Oppenheim, Chief, Prosecutors Supervision & Coordination Bureau
DAG Stephen Monson, Prosecutors Supervision & Coordination Bureau
DAG Mark Holmes, Division of Law, NJMVC, General Counsel

Distribution list: State, Bi-State & Other Law Enforcement Agencies

State Law Enforcement Agencies

Dept. Human Services Police, Chief R. Brennan
Division of Fish & Wildlife, Chief R. Winkel
State Park Service, Chief T. Genardi
New Jersey Transit Police, Chief J. Bober

Bi-State Law Enforcement Agencies

Port Authority of NY & NJ Police, Acting Dir. J. Morris
Palisades Interstate Parkway Police, Chief R. DeWald
Delaware River & Bay Authority Police, Col. J. McCarnan
Delaware River Port Authority Police, Dir. V. Borrelli
Burlington County Bridge Commission Police, Chief L. Cicero

Federal Law Enforcement Agencies

Department of Defense Police, Fort Dix, Fort Monmouth, Lakehurst
Picatinny Arsenal Police Department
US Air Force Security Police, McGuire AFB
US Naval Security Department, USN Weapons Station Earle
National Park Service Police, Sandy Hook, Morristown Nat'l Historic Park

Educational Institution Police Departments

Brookdale Community College, Chief of Police
Burlington County College, Director Security & Safety
College of New Jersey, Police Director
Essex County College, Chief of Police
Kean University, Chief, Dept. of Public Safety & Police
Middlesex County College, Chief of Police
Monmouth University, Chief of Police
Montclair State University Police, Chief of Police
NJ Institute of Technology, Chief, Public Safety Dept.
Richard Stockton College of NJ, Chief of Police
Rowan College, Police Director
Rutgers University Police, Essex, Middlesex, Camden
UM&D, NJ, Dep. Chief of Police
Wm. Paterson University, Chief of Police